

**735 KAR 1:020. Processing system including vendor participation, security, and maintenance and repair for specialized telecommunications equipment.**

RELATES TO: KRS 12.290, Chapter 45A, 61.878, KRS 163.525-163.527, 278.5499, 334.020, 29 U.S.C. 794, 42 U.S.C. 12101

STATUTORY AUTHORITY: KRS 12.290, 163.525(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.290 requires each administrative body of state government to promulgate administrative regulations in compliance with federal mandates to provide accessibility to services by persons who are deaf or hard of hearing. KRS 163.525(5) requires the Commission on the Deaf and Hard of Hearing to promulgate administrative regulations to establish procedures for application for, and distribution of, telecommunications devices. This administrative regulation establishes procedures for specialized telecommunications equipment vendors, for security, and for maintenance and repair.

Section 1. Definitions. (1) "Applicant" means a person who applies to receive specialized telecommunications equipment under the auspices of the KCDHH Telecommunications Access Program.

(2) "Application" means the current KCDHH Telecommunications Access Program application entitled "Telecommunications Access Program Application and Certification" available in both hardcopy and electronic format.

(3) "Approved date" means the date that all supporting documentation for the application is received and verified by the KCDHH as complete.

(4) "APRN" means Advanced Practice Registered Nurse licensed by the Kentucky Board of Nursing as defined by KRS 314.011(7).

(5) "Audiologist" is defined by KRS 334A.020(5), and is limited to a person licensed by the board, as defined by KRS 334A.020(1).

(6) "Certification" means professional verification of the extent and permanence of the applicant's disability.

(7) "Deaf" and "hard of hearing" are defined by KRS 163.500.

(8) "Deaf-blind" means an individual whose primary disability is deafness and secondary disability is vision impairment.

(9) "ENT" or Otolaryngologist" means a medical professional trained in the medical and surgical management of patients with diseases and disorders of the ear, nose, and throat.

(10) "Fiscal constraint" means when seventy-five (75) percent of annual program funds have been disbursed or encumbered.

(11) "Hearing instrument specialist" means "specialist in hearing instruments" as defined by KRS 334.010(9).

(12) "KCDHH" means the Kentucky Commission on the Deaf and Hard of Hearing, as described at KRS 163.506.

(13) "Physician" means a person:

(a) With a medical degree;

(b) Licensed by the state in which he or she practices medicine; and

(c) Recognized, by the state Board of Medical Licensure in the state in which the physician practices, as a specialist in:

1. Family practice;

2. General practice;

3. Otolaryngology; or

4. Internal Medicine.

(14) "Physician Assistant Certified" (PAC) means a person licensed under KRS 311.840 to

311.862.

(15) "Recipient" means a person who receives specialized telecommunications equipment under the auspices of the KCDHH Telecommunications Access Program.

(16) "Specialized telecommunications equipment" or "STE" is defined by KRS 163.525(1)(a)

(17) "Speech-impaired" means a person with a communication disorder such as stuttering, impaired articulation, impaired language, or impaired voice that adversely affects the use of telecommunications access lines.

(18) "Speech-language pathologist" is defined by KRS 334A.020(3), and is limited to a person licensed by the board, as defined by KRS 334A.020(1).

(19) "Telecommunications Access Line" means the transmission of auditory, visual, and typed communication via electronic airwaves or hard-wired methods.

(20) "Telecommunications Access Program" is defined by KRS 163.525(1)(b).

Section 2. Processing System. (1) The KCDHH shall use accounting procedures consistent with Commonwealth accounting practices in compliance with applicable sections of the Model Procurement Code, KRS Chapter 45.

(2) Contracting, purchasing, bidding, invoicing, and payment practices shall be conducted in accordance with applicable provisions of the Model Procurement Code, KRS Chapter 45A, and shall be applied uniformly to vendors.

(3) The KCDHH Telecommunications Access Program accounts shall be audited on a regular basis by the Auditor of Public Accounts.

Section 3. Vendor and Recipient Participation. (1) The vendor shall be responsible for complying with the provisions of the Model Procurement Code, KRS Chapter 45, as established in the contract between the vendor and KCDHH. The vendor shall:

(a) Mail or otherwise deliver the STE directly to the recipient's Kentucky residence; and

(b) Send the following to the KCDHH:

1. An itemized invoice with the recipient's name and STE model and serial number; and

2. A copy of the delivery receipt for the STE sent to the recipient.

(2) The vendor, in exchange for an itemized invoice and a copy of the delivery receipt, shall be paid by the KCDHH through the state accounting system pursuant to the Memorandum of Agreement established between the Public Service Commission and the KCDHH.

(3) The recipient shall be responsible for any costs involved in having features not specified in the vendor contract added to the recipient's STE. This includes the responsibility for the maintenance and repair of those features not specified in the vendor contract.

(4) Ownership rights and responsibilities for the STE shall belong to the recipient, as evidenced by the recipient's copy of the delivery receipt. Equipment obtained under this program shall not be sold, loaned, gifted or otherwise transferred out of the possession of the originally authorized recipient. Any person who attempts to sell or who knowingly purchases stolen equipment shall be disqualified from the program indefinitely.

(a) A recipient shall not be responsible for the actual maintenance and repair of the equipment during the applicable warranty period. In order to have a malfunctioning STE repaired, the recipient shall:

1. Contact the KCDHH, or the vendor if applicable to the contract; and

2. Comply with the repair and maintenance procedures established in Section 5 of this administrative regulation.

(b) Each recipient shall:

1. Assume responsibility for monthly maintenance of the telecommunications access line as described in 735 KAR 1:010; and

2. Pay for other general costs and supplies associated with the functions and use of the STE.

(c) A recipient shall be responsible for the loss of an STE received under the auspices of the KCDHH Telecommunications Access Program.

Section 4. Security. The recipient shall: (1) Notify the KCDHH within ten (10) working days if the equipment is lost or damaged; and

(2) File a police report and send it to KCDHH, if the equipment is stolen.

Section 5. Maintenance and Repair Procedures. (1) A recipient shall report equipment in need of repair to the KCDHH or the vendor if applicable to the contract. If applicable, the Telecommunications Access Program staff shall inform the recipient of:

(a) The mailing address and telephone number of the manufacturer; and

(b) The purchase order number for the equipment.

(2) The recipient shall:

(a) Report the problem to the vendor that distributed the equipment, as instructed by Telecommunications Access Program staff.;

(b) Ask that the appropriate vendor pay for shipping the defective equipment:

1. To the vendor's designated place of repair; and

2. Back to the recipient, once repaired.

(3) The vendor shall determine from the contracted repair agent whether the STE is repaired or is not repairable. The vendor shall obtain and provide verification of the transaction to KCDHH. If the warranty period has ended, per the vendor's contract, the recipient shall assume financial responsibility for repair of the equipment.

(4) A recipient shall notify the KCDHH immediately of a change of residential address. (21 Ky.R. 2870; Am. 22 Ky.R. 50; eff. 7-6-1995; 23 Ky.R. 1447; eff. 11-7-1996; 25 Ky.R. 1149; eff. 1-19-1999; 28 Ky.R. 701; 1129; eff. 11-5-2001; 33 Ky.R. 1709; 2298; eff. 3-9-2007; 35 Ky.R. 2570; 36 Ky.R. 67; eff. 7-13-2009; 38 Ky.R. 1227; 1449; eff. 3-2-2012 – Amd 44 Ky.R. 2391; 45 Ky.R. 36; eff. 8-6-2018.)